Examiner's convenience, a complete listing of all pending claims in their present form is provided at Appendix A.

Applicants respectfully traverse the combination of McLeod with Kung for the following reasons. First, Applicants respectfully traverse the asserted motivation to combine the cited references. Applicants note that

> [o]bviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art.

(MPEP § 2143.01) However,

> [t]he examiner may take official notice of facts outside the record which are capable of instant and unquestionable demonstration as being well-known in the art. ... If justified, the examiner should not be obliged to spend time to produce documentary proof. If the knowledge is of such notorious character that official notice can be take, it is sufficient so to state. ... If the applicant traverses such an assertion the examiner should cite a reference in support of his or her position.
>
> When a rejection is based on facts within the personal knowledge of the examiner, the data should be stated as specifically as possible, and the facts **must be supported, when called for by the applicant, by an affidavit** from the examiner.

(MPEP § 2144.03, emphasis added) Because no reference is cited providing the teaching, suggestion, or motivation to combine McLeod with Kung, Applicants assume the office action is relying on facts within the personal knowledge of the examiner. Applicants, therefore, request either an express showing of documentary proof, or an affidavit specifically stating the facts within the personal knowledge of the examiner, as required by MPEP § 2144.03.

Second, Applicants believe modifying McLeod in light of Kung would render McLeod's invention unsatisfactory for its intended purpose. Applicants note that "[i]f proposed modifications would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modifications." (MPEP § 2143.01) McLeod teaches a long distance

telephone switching system. McLeod's system is accessed by dialing an access number. Applicants, on the other hand, claim a system that provides information to subscribers in response to an off-hook indication, irrespective of whether the subscriber is accessing local phone services, long distance phone services, or merely lifting the receiver to receive the desired services. To modify McLeod's invention in light of Kung, as suggested by the office action, would render McLeod's invention unsatisfactory for its intended purpose because subscribers would be forced to initiate all calls, including local phone calls, through a long distance telephone switching system. Thus, claims 1, 16, and 27 are believed to be patentable, at least for this additional reason.

Claims 2-15 depend from claim 1, claims 17-26 depend from claim 16, and claims 28-37 depend from claim 27. Thus, these claims are believed to be patentable, at least for the reasons stated above with respect to claims 1, 16, and 27.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

Irvin E. Branch
Reg. No. 42,358

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel: (303) 571-4000 (Denver Office)
Fax: (303) 571-4321GB:arl

APPENDIX A

PRESENTLY PENDING CLAIMS

1. (Once Amended) In a communication network comprising a plurality of subscriber telephone lines, each coupled to an associated telephoning switching facility, each subscriber telephone line having at least one directory number and an associated subscriber profile including selected information services, a method for providing information services to a subscriber, comprising:

detecting an off-hook condition at a subscriber telephone line;

determining the information services selected by the subscriber; and

in response to the off-hook condition, generating a message corresponding to the selected information services for receipt by the subscriber, wherein the step of determining comprises correlating the subscriber directory number with the selected information services in the subscriber's profile.

2. (As Filed) A method as in claim 1, wherein the message is an audio message.

3. (As Filed) A method as in claim 1, wherein the message is a text message.

4. (As Filed) A method as in claim 1, wherein the message is a video message.

5. (As Filed) A method as in claim 1, wherein the message is a graphic message.

6. (As Filed) A method as in claim 1, wherein the step of determining comprises correlating the subscriber directory number with the selected information services in the subscriber's profile in accordance with predetermined criteria.

7. (As Filed) A method as in claim 6, wherein the predetermined criteria includes the time, date, or day of week.

8. (As Filed) A method as in claim 6, wherein the predetermined criteria includes the time since the last detected "off-hook" condition.

9. (As Filed) A method as in claim 1, wherein while receiving the message, or after the message completes, entering one of a plurality of codes by the subscriber accesses additional information.

10. (As Filed) A method as in claim 9, wherein entering a code by the subscriber accesses the subscriber's correspondence messaging service.

11. (As Filed) A method as in claim 1, wherein the communication network is an advanced intelligent network (AIN).

12. (As Filed) A method as in claim 1, wherein the communication network is a public switched telephone network.

13. (As Filed) A method as in claim 1, wherein selecting an appropriate calling number by the subscriber terminates the message.

14. (As Filed) A method as in claim 13, wherein the subscriber selects an appropriate calling number by generating DTMF (dual tone multi-frequency) tones.

15. (As Filed) A method as in claim 1, wherein the message is terminated when the subscriber goes "on hook" by hanging up the line.

16. (Once Amended) In a wireless communication network comprising a plurality of subscriber telephone lines, each coupled to an associated telephone switching facility, each subscriber telephone line having at least one directory number and an associated subscriber profile including selected information services, a method for providing information services to a subscriber, comprising:

detecting at a switching facility an off-hook condition at a subscriber telephone line;

determining the information services assigned to a subscriber; and,

in response to the off-hook condition, generating an audio message corresponding to the assigned information services for receipt by the subscriber in place of dial tone, wherein the step of determining comprises correlating the subscriber directory number with the selected information services in the subscriber's profile.

17. (As Filed) A method as in claim 16, wherein the step of determining comprises correlating the subscriber directory number with the selected information services in the subscriber's profile in accordance with predetermined criteria.

18. (As Filed) A method as in claim 17, wherein the predetermined criteria includes the time, date, or a day of week.

19. (As Filed) A method as in claim 17, wherein the predetermined criteria includes the time since the last detected "off-hook" condition.

20. (As Filed) A method as in claim 16, wherein while receiving the message, or after the message completes, entering one of a plurality of codes by the subscriber accesses additional information.

21. (As Filed) A method as in claim 20, wherein entering a code by the subscriber accesses the subscriber's correspondence messaging service.

22. (As Filed) A method as in claim 16, wherein the communication network is an advanced intelligent network (AIN).

23. (As Filed) A method as in claim 16, wherein the communication network is a public switched telephone network.

24. (As Filed) A method as in claim 16, wherein selecting an appropriate calling number by the subscriber terminates the message.

25. (As Filed) A method as in claim 24, wherein subscriber selects an appropriate calling number by generating DTMF (dual tone multi-frequency) tones.

26. (As Filed) A method as in claim 16, wherein the message is terminated when the subscriber goes "on hook" by hanging up the line.

27. (Once Amended) In a communication network comprising a plurality of subscriber telephone lines, each coupled to an associated telephoning switching facility, each subscriber telephone line having at least one directory number and an associated subscriber profile including selected information services, a system for providing information services to a subscriber, comprising:

means for detecting an off-hook condition at a subscriber telephone line;

means for determining the information services selected by the subscriber; and,

means for generating an audio message, in response to the off-hook condition, corresponding to the selected information services for receipt by the subscriber, wherein the step of determining comprises correlating the subscriber directory number with the selected information services in the subscriber's profile.

28. (As Filed) A method as in claim 27, wherein the step of determining comprises correlating the subscriber directory number with the selected information services in the subscriber's profile in accordance with predetermined criteria.

29. (As Filed) A method as in claim 28, wherein the predetermined criteria includes the time, date, or day of week.

30. (As Filed) A method as in claim 28, wherein the predetermined criteria includes the time since the last detected "off-hook" condition.

31. (As Filed) A method as in claim 27, wherein while receiving the message, or after the message completes, entering one of a plurality of codes by the subscriber accesses additional information.

32. (As Filed) A method as in claim 31, wherein entering a code by the subscriber accesses the subscriber's correspondence messaging service.

33. (As Filed) A method as in claim 27, wherein the communication network is an advanced intelligent network (AIN).

34. (As Filed) A method as in claim 27, wherein the communication network is a public switched telephone network.

35. (As Filed) A method as in claim 27, wherein selecting an appropriate calling number by the subscriber terminates the message.

36. (As Filed) A method as in claim 35, wherein the subscriber selects an appropriate calling number by generating DTMF (dual tone multi-frequency) tones.

37. (As Filed) A method as in claim 27, wherein the message is terminated when the subscriber goes "on hook" by hanging up the line.